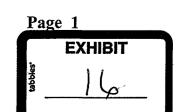
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00001
 1
      IN THE UNITED STATES DISTRICT COURT FOR THE
 2
          NORTHERN DISTRICT OF OKLAHOMA
 3
 4
  W. A. DREW EDMONDSON, in his)
 5 capacity as ATTORNEY GENERAL)
  OF THE STATE OF OKLAHOMA and )
 6 OKLAHOMA SECRETARY OF THE )
  ENVIRONMENT C. MILES TOLBERT,)
 7 in his capacity as the
 TRUSTEE FOR NATURAL RESOURCES)
 8 FOR THE STATE OF OKLAHOMA, )
 9
         Plaintiff.
10 vs.
                   )4:05-CV-00329-TCK-SAJ
11 TYSON FOODS, INC., et al,
12
         Defendants.
13 -----
            VOLUME I OF THE VIDEOTAPED
15 DEPOSITION OF BERTON FISHER, PhD, produced as a
16 witness on behalf of the Defendants in the above
17 styled and numbered cause, taken on the 3rd day of
18 September, 2008, in the City of Tulsa, County of
19 Tulsa, State of Oklahoma, before me, Lisa A.
20 Steinmeyer, a Certified Shorthand Reporter, duly
21 certified under and by virtue of the laws of the
22 State of Oklahoma.
23
24
25
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Fisher, J. Berton Ph.D. 9/3/2008



00157

1 correctly?

- 2 MR. GARREN: Object to form.
- 3 A No, you're not reading that correctly. I'm
- 4 simply recording the fact that it is not.
- 5 Q Is it your opinion that poultry litter should 01:51PM
- 6 be tilled into the soil in the Illinois River

7 watershed?

- 8 A I don't have an opinion as to whether or not
- 9 it should be tilled into the soil. I simply
- 10 observed that by not tilling it into the soil puts 01:51PM
- 11 it in a circumstance where it may be more readily
- 12 transported.
- 13 Q You, in connection with your work in this
- 14 case, Dr. Fisher, have had an opportunity to review
- 15 nutrient management plans issued by the Oklahoma 01:52PM
- 16 Department of Ag as well as the Arkansas Natural
- 17 Resources Department; correct?
- 18 A Yes, I have.
- 19 Q Do these plans advise users of poultry litter
- 20 about what they can and cannot do in terms of using 01:52PM
- 21 poultry litter?
- 22 A In a general sense, yes.
- 23 Q Have you seen in any of those plans where the
- 24 Arkansas Natural Resources Commission or ODAFF has
- 25 instructed users of poultry litter to till it into 01:52PM

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1 the soil?

- 2 A I have not.
- 3 Q Have you suggested to Attorney General
- 4 Edmondson or any of the Oklahoma agencies, including
- 5 the Oklahoma Department of Ag, that they should

01:52PM

6 consider a requirement that poultry litter be tilled

7 into the soil?

- 8 MR. GARREN: Object to form.
- 9 A No, I have not.
- 10 Q Let's look at Opinion No. 10, which I'll read.

01:52PM

- 11 For the Record, your Opinion No. 10 is waste
- 12 generated by poultry within the Illinois River
- 13 watershed has been applied near to where it is
- 14 generated. Did I read it correctly?
- 15 A You did.

01:53PM

- 16 Q Okay. Look at Page 26. You are referring to,
- 17 in the second paragraph, to a dataset that you have
- 18 reviewed. Do you see that reference for the dataset
- 19 as a whole?
- 20 A No, I do not, Mr. George.

01:53PM

- 21 Q Perhaps I can help you. Right there.
- 22 A Oh. Yes.
- 23 Q What dataset are you referring to?
- 24 A Okay. That is the dataset that is based upon
- 25 the ODAFF records, the Oklahoma Department of

01:53PM